

Supreme Court, U. S.

FILED

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

NO. 75-1420

ROUNDHOUSE CONSTRUCTION CORPORATION,

Petitioner

vs.

TELESCO MASON'S SUPPLIES CO., ET ALs

**OPPOSITION TO PETITION FOR WRIT OF
CERTIORARI TO THE SUPREME COURT
OF THE STATE OF CONNECTICUT**

Herbert V. Camp, Jr.

Attorney for Respondents,

Richard Fischer and Bonnie Fischer

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June 25, 1976

IN THE

Supreme Court of the United States

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Petitioner

vs.

TELESCO MASONS SUPPLIES CO., ET ALs

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**OPPOSITION TO PETITION FOR WRIT OF
CERTIORARI TO THE SUPREME COURT
OF THE UNITED STATES**

Respondents, Richard and Bonnie Fischer, oppose granting Petitioner's Writ of Certiorari on the grounds (1) that the question presented is moot and (2) that when a state court decides a case upon two grounds, one federal and the other non-federal, this Court will not disturb the judgment if the non-federal ground, fairly construed, sustains the decision.

The facts and procedure are substantially as stated in Petitioner's Petition for Writ of Certiorari.

Briefly, in vacating the judgment and remanding this case to the Connecticut Supreme Court, this Court in effect raised a factual issue — did the Connecticut Supreme Court base its judgment upon federal or state constitutional grounds, or both.

The Connecticut Supreme Court's second opinion makes it abundantly clear that that court decided the question on both Connecticut constitutional and federal constitutional grounds. **Roundhouse Construction Corporation v. Telesco Masons' Supplies Company, Inc.**, ___ Conn. ___, 37 Conn. Law Journal 31 (Dec. 1975).

No matter what decision this Court may make, the decision of the Supreme Court of Connecticut that the Connecticut mechanics' lien statute is invalid under the Connecticut Constitution will stand. Even if this Court decides that the Connecticut mechanics' lien statute is valid under the 14th Amendment to the Constitution of the United States, and that the Connecticut Supreme Court was in error in deciding otherwise, the Connecticut Supreme Court has decided that the mechanics' lien statute

is invalid under Article First, Section 10 of the Constitution of the State of Connecticut. As to the latter question, the Connecticut Supreme Court's decision is final. The litigation is therefore completed and the question is moot. See **Aikens v. California**, 406 U.S. 813, 92 S.Ct. 1931 (1972).

Petitioner argues that somehow the federal and state questions are inexorably intertwined. It may be that the Connecticut Supreme Court was in error in considering federal cases to determine the extent of the Connecticut Constitution. Even, however, if the Connecticut Court was wrong in that interpretation, its decision is final.

Alternatively, the petition ought to be dismissed on the ground that the judgment of the Connecticut Supreme Court rests on an adequate independent state ground sufficient in itself to sustain the decision. See **Lynch v. New York**, 293 U.S. 52, 55 S.Ct. 16 (1934), **Berea College v. Kentucky**, 211 U.S. 45, 53, 29 S.Ct. 33 (1908).

Respectfully submitted,
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June 25, 1976